AMERICAN CENTER for LAW & JUSTICE

July 13, 2026

The Honorable Russell Vought
Director
Office of Management and Budget
[redacted]

RE: Notice of Proposed Rulemaking Regarding Revisions to 2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Dear Director Vought,

The American Center for Law and Justice (ACLJ) respectfully submits these comments regarding the Office of Management and Budget's ("OMB") Notice of Proposed Rulemaking ("NPRM") revising the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards under 2 C.F.R. Part 200.

The ACLJ is dedicated to defending constitutional freedoms, religious liberty, the sanctity of human life, and the rule of law. We also advocate for accountability in government and proper stewardship of taxpayer funds. We therefore appreciate OMB's efforts to strengthen oversight, increase transparency, prevent fraud and abuse, and ensure that federal financial assistance is administered consistent with statutory and constitutional limitations.

Federal grantmaking involves the expenditure of hundreds of billions of taxpayer dollars annually. Congress appropriates these funds for specific purposes established by law, and the Executive Branch bears a constitutional responsibility to ensure those funds are administered lawfully, transparently, and free from fraud, abuse, waste, ideological favoritism, or unlawful discrimination. Public confidence in federal grantmaking depends upon objective standards, meaningful oversight, constitutional neutrality, and faithful adherence to statutory authority.

1. Overall Support for Enhanced Accountability, Oversight, and Anti-Fraud Measures

The ACLJ supports OMB's efforts to strengthen oversight and accountability throughout the federal grantmaking process. In particular, we support proposed provisions that increase scrutiny of recipient and subrecipient relationships, enhance disclosure obligations, improve risk assessment procedures, strengthen conflict-of-interest oversight, increase transparency concerning organizational affiliations and financial capacity, and reduce opportunities for fraud, abuse, and misuse of taxpayer dollars.

We further support OMB's proposed revisions requiring agencies to evaluate recipient integrity, financial management capability, and risk indicators before awarding federal funds. Strengthened oversight is particularly important where layered pass-through entities or affiliated organizations may obscure accountability for the ultimate use of taxpayer dollars.

The ACLJ also supports the NPRM's efforts to strengthen transparency concerning subrecipients and related entities. Requiring pass-through entities to properly classify affiliated organizations, subsidiaries, and related entities as subrecipients or contractors where appropriate will improve accountability and reduce opportunities to evade federal oversight requirements.

These reforms are consistent with the federal government's obligation to ensure that taxpayer funds are administered consistent with congressional appropriations and lawful programmatic objectives.

2. Support for Proposed § 200.219 Protecting Viewpoint and Religious Neutrality

The ACLJ strongly supports prohibiting recipients and subrecipients from discriminating on the basis of viewpoint, ideological affiliation, political affiliation, subject matter, or religious perspective in the provision of event-related services funded through federal financial assistance. It is important that federal funds not be used to facilitate viewpoint discrimination against constitutionally protected speech or religious expression.

At the same time, in order to be "consistent with the First Amendment," OMB must further clarify that this provision may not be used to force faith-based grant recipients into including any content, speech, services, activity or other action that violates their deeply held religious beliefs. It should also expressly protect the rights of faith-based grant recipients to consider religion in employmenet decisions.

The ACLJ also supports the NPRM's protections against discriminatory fees, security requirements, insurance obligations, or administrative burdens imposed based upon viewpoint or ideology. These protections are particularly important where recipients might otherwise impose excessive costs or procedural obstacles on controversial, religious, or conservative speakers and organizations as a means of suppressing disfavored viewpoints through indirect financial burdens while favoring ideologically preferred perspectives.

We further recommend that OMB clarify that "viewpoint discrimination" includes discrimination against religious and pro-life perspectives, recipients may not impose ideological litmus tests unrelated to statutory program requirements, and agencies must enforce § 200.219 consistently across all federally funded programs and activities.

The federal government must remain neutral toward competing viewpoints and may not leverage federal funding to suppress protected speech or religious expression.

3. Support for Religious Liberty and Conscience Protections in Proposed § 200.300

The ACLJ strongly supports inclusion of explicit religious liberty and conscience protections in proposed § 200.300. The NPRM appropriately recognizes that federal financial assistance programs must operate consistent with the First Amendment, the Religious Freedom Restoration Act ("RFRA"), federal conscience protections, and any other applicable religious liberty protections established by federal law.

Faith-based organizations play an indispensable role in serving communities throughout the nation through education, disaster relief, adoption services, anti-poverty initiatives, healthcare, refugee assistance, and humanitarian work. The Supreme Court has repeatedly held that religious organizations cannot be excluded from generally available public benefit programs solely because they are religious.

See *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. 449 (2017); *Espinoza v. Montana Department of Revenue*, 591 U.S. 464 (2020); *Carson v. Makin*, 596 U.S. 767 (2022); *Fulton v. City of Philadelphia*, 593 U.S. 522 (2021).

The ACLJ therefore supports OMB's recognition that agencies must comply with constitutional and statutory religious liberty protections when administering federal awards.

We further recommend that OMB expressly clarify in the final rule that:

- Agencies may not discriminate against applicants or recipients based on religious character, faith-based governance, or religious exercise.
- Participation in federal grant programs does not require recipients to surrender constitutionally protected religious beliefs or practices.
- Agencies must provide religious accommodations and exemptions where required by RFRA and other federal protections.
- Grant administration must remain neutral toward religion and may not favor secular organizations over faith-based organizations.

These protections are particularly important because future administrations may attempt to use grant conditions to pressure religious organizations into abandoning sincerely held beliefs regarding marriage, biological sex, sexuality, or the sanctity of life. The Constitution does not permit federal agencies to condition public participation on ideological conformity.

4. Support for Proposed § 200.477 Restricting Funding for Abortions

The federal government has long recognized profound moral and constitutional concerns surrounding compelled taxpayer participation in abortion-related activities. The ACLJ strongly supports making the costs associated with abortions unallowable by reinforcing longstanding federal appropriations restrictions, including principles reflected in the Hyde Amendment and related federal conscience protections. The text of the regulation should make clear that funding limitations apply not only to abortion procedures, but to abortion referrals and abortion travel.

Although the NPRM appropriately prohibits direct funding of "elective abortion" costs absent express statutory authorization, the ACLJ encourages OMB to strengthen the final rule by properly defining "elective" or removing the word altogether. The word "elective" is not used in other areas of federal funds restrictions related to abortion, so it should be properly defined or eliminated before finalizing the NPRM.

Additionally, the NPRM should address indirect circumvention risks involving subrecipients, affiliates, subsidiaries, pass-through entities, and cost-shifting arrangements. Without additional safeguards, recipients could potentially redirect federal funds through layered organizational structures in ways that undermine the purpose of § 200.477 and longstanding federal appropriations restrictions protecting taxpayers from compelled funding of abortion activities.

Likewise, OMB should clarify that agencies may not indirectly circumvent § 200.477 through subrecipient arrangements or pass-through funding mechanisms to violate existing federal conscience protections which remain fully applicable to all federal grant programs, and that agencies may not discriminate against applicants or recipients because of pro-life beliefs, speech, advocacy, or organizational mission.

Strong financial transparency and accountability measures are particularly important where federal funds may flow through multiple layers of subrecipients or affiliated entities.

5. Proposed Termination Authority and Due Process Protections

While the ACLJ supports appropriate enforcement authority for fraud, abuse, noncompliance, and misuse of taxpayer funds, we are concerned that portions of the NPRM may grant agencies under future administrations overly broad discretionary authority without sufficient procedural safeguards. In particular, proposed §§ 200.340 through 200.342 would permit agencies to terminate federal awards based upon broad policy considerations, including changing agency priorities or determinations regarding the national interest. Although the NPRM appropriately provides for written notice and certain termination cost procedures, the proposal would not require agencies to provide hearings or appeals for several categories of discretionary termination decisions.

Such broad discretionary authority creates substantial risks of arbitrary enforcement, viewpoint discrimination, and ideological weaponization by future administrations. Federal agencies should not possess unchecked authority to terminate awards based upon vague or shifting "agency priorities" without meaningful procedural protections.

Accordingly, the ACLJ respectfully recommends that OMB revise the final rule to require:

- Clear and objective standards governing discretionary termination decisions.
- Written notice identifying the factual and legal basis for termination.
- Meaningful opportunities for recipients to respond and appeal adverse actions.
- Protection against arbitrary or viewpoint-based enforcement.
- Reimbursement standards for reasonable reliance costs consistent with principles analogous to federal contract termination-for-convenience procedures where appropriate.

The ACLJ also encourages OMB to clarify proposed § 200.343 governing allowable costs following suspension or termination. Recipients that reasonably relied upon valid federal awards should have clear guidance concerning reimbursement of allowable obligations, closeout costs, and reliance expenditures incurred prior to termination. Providing greater certainty regarding post-termination costs would promote fairness, reduce unnecessary disputes, and better align federal assistance practices with longstanding principles reflected in federal contract termination procedures.

These safeguards are necessary to preserve due process, promote fairness, and prevent future administrations from weaponizing federal grant authority against disfavored viewpoints or religious organizations. Without adequate procedural protections, future administrations could misuse grant authority to target: religious schools and universities; pregnancy resource centers; faith-based adoption agencies; pro-life healthcare providers; religious ministries; or conservative nonprofit organizations. The Constitution does not permit federal financial assistance programs to become tools for ideological coercion or political retaliation.

6. Support for Enhanced Ethics and Mandatory Disclosure Requirements

The ACLJ supports the NPRM's strengthened ethics and disclosure provisions under § 200.112 and § 200.113. Proposed § 200.112 improves transparency by requiring disclosure of certain recent federal employment relationships involving employees who participated in preparing or submitting proposals or administering awards. This provision helps reduce conflicts of interest and strengthens public confidence in the integrity of federal grantmaking.

The ACLJ also supports proposed § 200.113, which strengthens mandatory disclosure obligations involving fraud, bribery, gratuities, and violations affecting federal awards. Prompt transmission of credible evidence to appropriate federal authorities promotes accountability and helps safeguard taxpayer funds from abuse and corruption. These provisions are consistent with the federal government's obligation to ensure that public funds are administered lawfully, ethically, and transparently.

The ACLJ has extensive experience utilizing the Freedom of Information Act (FOIA) and related transparency mechanisms to uncover government misconduct, improper coordination, and failures in oversight that otherwise would have remained hidden from public view. While FOIA remains an important accountability tool, it is often a lengthy and resource-intensive process that can take months or years to produce meaningful records. By requiring timely disclosure of credible evidence of fraud, bribery, conflicts of interest, and other violations affecting federal awards, proposed § 200.113 promotes transparency at the front end rather than forcing taxpayers, watchdog organizations, journalists, and Congress to uncover misconduct after the fact through prolonged records requests and litigation. Early disclosure requirements strengthen public trust, improve agency oversight, and help ensure that concerns involving federal funds are identified and addressed before they develop into larger abuses of the public trust.

7. Support for Enforcement Cooperation Under Proposed § 200.339

The ACLJ supports proposed § 200.339 to the extent it permits appropriate cooperation involving enforcement of lawful civil remedies for noncompliance with federal award requirements. Federal agencies should not ignore serious violations involving unlawful discrimination, misuse of taxpayer funds, or violations of constitutional and statutory protections applicable to federal financial assistance.

At the same time, OMB should clarify that enforcement cooperation must remain consistent with constitutional protections, including the First Amendment, RFRA, and viewpoint neutrality principles. Agencies should not facilitate politically motivated or ideologically selective enforcement efforts targeting religious or conservative organizations.

8. Support for Restrictions on Taxpayer-Funded Political Activities Under Proposed § 200.450

The ACLJ supports proposed § 200.450 restricting the use of federal financial assistance for voter registration drives, unrelated issue advocacy campaigns, public messaging unrelated to the award, and efforts to influence state executive branch actions outside the scope of the federally funded program.

Federal grant programs exist to carry out congressionally authorized objectives, not to subsidize partisan advocacy, unrelated lobbying efforts, or taxpayer-funded political organizing. These restrictions appropriately reinforce constitutional accountability and help ensure that taxpayer funds are used for authorized programmatic purposes rather than ideological or political activism.

9. Support for Enhanced Restrictions on Membership, Marketing, and Selling Costs

The ACLJ supports proposed revisions to §§ 200.454 and 200.467 strengthening limitations on memberships, subscriptions, professional activity costs, marketing expenses, and selling costs unrelated to the purposes of the federal award.

Taxpayer funds should not be diverted toward unrelated organizational promotion, ideological branding campaigns, excessive association activity, or indirect subsidization of political or advocacy operations disconnected from the authorized objectives of the federal program. Strengthening these limitations promotes fiscal accountability and helps prevent misuse of federal financial assistance for activities beyond the scope intended by Congress.

Conclusion

The ACLJ appreciates OMB's efforts to strengthen accountability, increase transparency, prevent fraud and abuse, and reinforce constitutional neutrality in federal grant administration.

We strongly support the NPRM's desire to promote viewpoint neutrality, religious liberty, conscience rights, and restrictions on funding abortions. These reforms represent important safeguards for constitutional freedoms and responsible stewardship of taxpayer funds. At the same time, OMB should ensure all necessary procedural protections are in place against arbitrary enforcement and future ideological weaponization of federal grant authority.

It is our hope that the final rule will improve federal accountability while preserving the constitutional liberties and statutory protections guaranteed to all Americans.

Respectfully submitted,

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